

REMARKS

As an initial matter, Applicants appreciate the courtesies extended to their representative, Seth Blum, by the Examiner during a telephone interview conducted May 9, 2006. These amendments and remarks presented herein reflect those discussed during the interview, and Applicants respectfully submit that this Response satisfies the requirements of MPEP §713.04.

Claims 1 and 3-18 are pending in the application and are presented for the Examiner's review and consideration. Claim 1 has been amended and claims 8-18 have been added. Applicants believe that the claim amendments, additions, and the accompanying remarks serve to clarify the present invention and are independent of patentability. Accordingly, Applicants respectfully submit that that they do not limit the range of any permissible equivalents.

35 U.S.C. § 112 Rejection

Claims 1 and 3-7 were rejected under 35 U.S.C 112, first paragraph, as failing to comply with the written description requirement. The Examiner stated that the recitation of "acceleration of a physiological process as a user" is new matter. The Examiner further states that although the specification mentions the term "physiological" in the context of measuring some processes and sequences of down regulation after stress on pages 4 and 9, respectfully, of the specification, the specification fails to describe "a physiological recovery process." Applicants request that this rejection be withdrawn for the following reasons.

Initially, Applicants note that "physiological" is defined as "characteristic of or appropriate to an organism's health normal function." (See the previously submitted printout from Merriam-Webster Online.)

The present invention provides a method for treating a person under extreme stress, either physical or mental, with at least 50 mg of L-Theanine for purpose of acceleration of regeneration. (¶[0008]). Usually the duration which is required for full regeneration after stressing is about one to two hours. (¶[0017]). In accordance with the invention, a dose of at least 50 mg L-Theanine is administered after the stressing by the person ingesting or drinking a food containing

the L-Theanine. (Id.) This way the regeneration process is substantially accelerated. (Id). For example the natural regeneration process can be shortened to about 30 minutes. (Id).

In order to verify this and possible further effects of L-theanine on different body functions in the human being in quantities which are conventional hitherto for dose, an investigation model having corresponding physical and biochemical detection processes was consequently needed, which has been developed on the basis of considerations regarding the physiological connections. (§[0020]). Based on the knowledge derived from investigations on animals and the hypothesis of a relaxing (stress-relieving) effect, the following are to be recorded on body functions: central nervous activity; peripheral adaptation reactions by stress hormones; indications regarding the coupling between central nervous control and hormonal regulation; circulatory behaviour; and electrodermal stress reaction, optionally wellbeing. (§[0022]). Electrophysiological processes and measurement of parameters in the blood and in the urine are suitable to record the functions in these regions. (§[0023]). The influence of the natural switching process from activity to recovery (from ergotropy to trophotropism) by foodstuffs or medicines can be understood both in the sense of support of the physiological mechanisms. (§[0033]). The first measurement is effected immediately after the end of stress, the test drink is then administered and the recovery phase introduced in standardised manner (usually while lying in a separate peaceful darkened room). (§[0027]).

As such, the present invention provides a method for accelerating the regeneration (recovery) process of the body of a user to a shortened period of about 30 minutes. The recovery process of the body of the user can be measured using a number of physiological mechanisms, such as, central nervous system activities, stress hormone levels, circulatory behaviour, etc. These physiological mechanisms have characteristics which are appropriate for a normal (unstressed) function. The physiological mechanisms are measured to determine the time required for the mechanism to return to their normal state. This is done for a placebo and various dosages of L-theanine. Accordingly, the present invention discloses that L-theanine is used to accelerate the recovery of physiological mechanisms in a body of a user from stress; i.e., a physiological process.

In light of the foregoing, Applicants request reconsideration and withdrawal of the section 112 rejection.

35 U.S.C. § 102(b) Fisher

Claims 1 and 3-7 were rejected under 35 U.S.C. § 102(b) as anticipated by Fisher et al. (“Fisher”) EP 1 275 309. For the reasons set forth below, Applicants respectfully submit that the rejected claims are not taught or suggested by Fisher.

The Examiner states that Fisher teaches the oral administration of L-theanine in the form of a food, such as drink, for stress relaxation. In the Response filed on December 16, 2005, Applicants argued that Fischer teaches a food combination that causes stress relaxation to mammals, apparently only for a treatment of insomnia. The Examiner stated that insomnia is a type of “mental stress.” However, even if insomnia is a “mental stress,” Fisher fails to disclose a method for acceleration of a physiological recovery process after a person has been subject to a stress (exertion). Furthermore, Fisher is only limited to insomnia and makes no mention of physical exertion.

In contrast, the present invention is directed to recovery after the exertion has been removed. Claim 1 previously recited that the user had “experienced” the stressing. Note that this is in the past tense. In order to further clarify the invention, claim 1 now recites, *inter alia*, a method for acceleration of a physiological recovery process of a body of a user after a physical exertion. The method includes providing an ingestible product including at least 50 mg of L-theanine. Upon completion of the physical exertion, the ingestible product is introduced into the user.

In light of the foregoing, Applicants submit the claim 1 is patentable over Fisher. As claims 3-7 depend from claim 1, including all of the limits thereof, Applicants submit that these claims are patentable at least for the same reasons.

Claims 1 and 3-7 were rejected under 35 U.S.C. § 102(b) as anticipated by Kanamichi et al. (“Kanamichi”) JP 09-012454. The Examiner states that Kanamichi teaches the administration of theanine in a food product to provide mental relaxation. However, as noted above, claim 1

recites a method for acceleration of a physiological recovery process of a body of a user after a physical exertion. As such, Applicants submit that Kanamichi fails to disclose the elements of claim 1.

In light of the foregoing, Applicants submit the claim 1 is patentable over Kanamichi. As claims 3-7 depend from claim 1, including all of the limits thereof, Applicants submit that these claims are patentable at least for the same reasons.

Claims 1, 4 and 7 were rejected under 35 U.S.C. § 102(b) as anticipated by Wataru et al. (“Wataru”) JP61000442. For the reasons set forth below, Applicants respectfully submit that the rejected claims are not taught or suggested by Wataru.

Wataru discloses providing a medicine capable of preventing or mitigating mental or physical diseases due to stress. (Abstract). The medicine has as an active ingredient L-theanine. (Id.) However, Wataru fails to disclose that the medicine can be used to accelerate the physiological recovery process of a body of a user after a physical exertion. As such, Applicants submit that Wataru fails to disclose the elements of claims 1.

In light of the foregoing, independent claim 1 is respectfully submitted to be patentable over Wataru. As claims 4 and 7 depend from claim 1, and necessarily include all the elements of the base claim, Applicants respectfully submit that these dependent claims are also patentable at least for the same reasons.

New Claims

Claims 8-18 have been added. Applicant submits that the new claims are patentable over the cited prior art.

Claims 8-10 depend from claim 1, and include all of the limits thereof. Accordingly, Applicants submit that these claims are patentable at least for the same reasons.

Claim 11 recites, *inter alia*, a method for acceleration of a physiological recovery process of a body of a user after a physical and/or mental stressing. The method provides an ingestible product having at least 50 mg of L-theanine. Upon completion of the physical and/or mental stressing, the ingestible product is introduced into the user to accelerate the physiological

process. The physiological recovery process is defined as having five stages, M1, M2, M3, M4, and M5, wherein M1 is immediately after stressing, M3 is a state of drowsiness, M5 is complete recovery, and M2 and M4 are transition stages, with M2 being the transition stage between M1 and M3 and M4 being the transition stage between M3 and M5. The introduction of the ingestible product into the users accelerates the time period from the M1 stage to the M5 stage to about thirty minutes.

Similarly, claim 18 recites, *inter alia*, a method for acceleration of a physiological recovery process of a body of a user after a mental stressing. The method provides an ingestible product having at least 50 mg of L-theanine. Upon completion of the mental stressing, the ingestible product is introduced into the user to accelerate the physiological process. The physiological recovery process is defined as having five stages, M1, M2, M3, M4, and M5, wherein M1 is immediately after stressing, M3 is a state of drowsiness, M5 is complete recovery, and M2 and M4 are transition stages, with M2 being the transition stage between M1 and M3 and M4 being the transition stage between M3 and M5. The introduction of the ingestible product into the users accelerates the time period from the M1 stage to the M5 stage to about thirty minutes. The physiological recovery processes includes central nervous system activity, stress hormone levels, circulatory behaviour, heart rate, blood pressure, brain wave activity, or electrodermal stress reaction.

Applicants submit that the cited prior art fails to disclose a method of accelerating the physiological recovery process from stress to recovery to thirty minutes. Claims 12-17 depend from claim 11 and include all of the limitations thereof. Accordingly, Applicants submit that these claims are patentable at least for the same reasons.

In light of the foregoing, claims 8-18 are respectfully submitted to be patentable over the cited prior art.

Conclusion

In light of the foregoing remarks, this application is now in condition for allowance and early passage of this case to issue is respectfully requested. If any questions remain regarding this

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Examiner: P. Spivack

amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

The RCE fee is being paid via credit card and no other fee is believed due. However, please charge any other the required fee (or credit any overpayments of fees) to the Deposit Account of the undersigned, Account No. 500601 (Docket No. 7390-X03-020).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul D. Bianco", with a long horizontal flourish extending to the right.

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